



# CITY OF SANTA BARBARA

## COUNCIL AGENDA REPORT

**AGENDA DATE:** December 8, 2009

**TO:** Mayor and Councilmembers

**FROM:** Engineering Division, Public Works Department

**SUBJECT:** Increase In Change Order Authority For The Upper Las Positas Creek Restoration And Storm Water Improvement Project

**RECOMMENDATION:** That Council:

- A. Approve an increase to the change order authority for Contract No. 23,117 with Shaw Contracting, Inc. (Shaw) for the Upper Las Positas Creek Restoration and Storm Water Improvement Project (Project) in the amount of \$400,000 for a total change order authority of \$848,349, pursuant to Santa Barbara Municipal Code Sections 4.52.080 and 9.116.060 relating to emergency purchases, to cover the cost of emergency work currently underway; and
- B. Approve an increase in change order authority with Fugro West, Inc. (Fugro), Contract No. 23,119, in the amount of \$35,000, for material testing and inspection for the Project, for a total change order authority of \$37,820.

### DISCUSSION:

The Upper Las Positas Creek Storm Water Improvement Project consists of construction of a series of bioswales and detention systems to detain and filter polluted storm water and incidental urban runoff within the area of the City Golf Course. The Project is planned to improve the quality of water entering Las Positas Creek and the Arroyo Burro Estuary. It is also anticipated that the storm flow rates into, and erosion of Las Positas Creek will be reduced.

The Santa Barbara Golf Club (Golf Course), a City-owned open space, is a major confluence for storm water and urban runoff from the neighboring areas of San Jose Road, Samarkand, and Adams Elementary School, and is an ideal place to treat water prior to entering the City creek system. Council awarded the construction contract for the Project on May 19, 2009, and work began on June 29, 2009.

The contract with Shaw had two work elements: the Upper Las Positas Creek work on the Golf Course and specific improvements related only to the Golf Course, namely new concrete cart paths and the relocation of two greens. The Creeks contractual elements totaled \$1,520,672.10 (with the original Change Order authority) and the Golf Course

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contractual element totaled \$469,479.40 (with Change Order authority). These elements totaled \$1,990,151.50. The discussion for this report only focuses on the Creeks elements of work.

On October 27, 2009, Council approved adding \$250,000 to the change order authority for Shaw's contract to address damages resulting from an extraordinary storm event that occurred on October 12 and 13, 2009, resulting in approximately 3.5 inches of rain. The erosion control, planting, grassing, and irrigation had yet to be completed in some areas, leaving portions of the Golf Course vulnerable during the storm event. Design deficiencies were revealed in several Project components and much of the construction site was damaged. Damages included the failure of the detention basins piping and severe scouring of flow channels. In the October 27, 2009 report, staff indicated that the City staff might need to return to Council for additional Change Order authority since we had not been able to complete a full assessment of damages.

City staff has been working closely with the design engineer and the construction contractor to address the damage. At this time, additional funds are necessary to complete the work.

Since we are entering the rainy season, Public Works and Parks and Recreation Department staff believe it is essential to move as quickly as possible to complete the Project, in particular the two detention basins. Failure to implement remedies could lead to the loss of work completed to date, damage to neighboring properties, and damage to the Golf Course. As such, staff determined the situation to be an emergency pursuant to Municipal Code Section 4.52.080 and authorized the contractor to proceed with emergency work to complete repairs and reconstruction work, which is protecting the site. The cost of the additional emergency work is \$400,000.

A change order authority increase of \$400,000 will bring the total change order authority with Shaw to \$848,349.

In addition, \$35,000 is requested in extra services from Fugro for a material (soils) testing special inspection to resolve issues related to the damage caused by the storm event.

Legal and financial responsibility for the damage resulting from the storm event has not been fully determined. There are indications that the damage was enhanced by possible design and construction deficiencies, which we anticipate will defer liability for some of these extra costs to the Designer (the Wallace Group) and to the Contractor (Shaw).

The following chart summarizes the proposed contract Change Order expenditures:

#### **CHANGE ORDER FUNDING SUMMARY**

|  |                  |
|--|------------------|
| Original Authorized Change Order Allowance   | \$198,349        |
| Additional Allowance (October 27, 2009 CAR)  | \$250,000        |
| Emergency Additional Allowance               | \$400,000        |
| <b>Total Proposed Change Order Authority</b> | <b>\$848,349</b> |

The following chart summarizes the contract authorizations:

#### **CONTRACT FUNDING SUMMARY**

|  | <b>Basic Contract</b> | <b>Change Funds</b> | <b>Total</b>          |
|--|-----------------------|---------------------|-----------------------|
| Shaw Construction                                    | \$1,322,323.10        | \$198,349.00        | \$1,520,672.10        |
| Shaw Additional Authorization<br>(10/27/09)          | -0-                   | \$250,000.00        | \$250,000.00          |
| Shaw Additional Authorization<br>(12/8/09 Proposed)  | -0-                   | \$400,000.00        | \$400,000.00          |
| Fugro  | \$28,280.00           | \$2,280.00          | \$30,560.00           |
| Fugro Additional Authorization<br>(12/8/09 Proposed) | -0-                   | \$35,000.00         | \$35,000.00           |
| <b>Total Recommended Authorization</b>               | <b>\$1,350,603.10</b> | <b>\$885,629.00</b> | <b>\$2,236,232.10</b> |

#### **BUDGETARY INFORMATION:**

Funding for this Project is available in the Creeks Restoration/Water Quality Improvement Capital Fund, Creeks Reserve Fund, and potentially project construction Grant funds.

**PREPARED BY:** Pat Kelly, Assistant Public Works Director/City Engineer/JH/mj

**SUBMITTED BY:** Christine F. Andersen, Public Works Director

**APPROVED BY:** City Administrator's Office